



General Assembly

February Session, 2010

Raised Bill No. 5090

LCO No. 581

00581_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT REGULATING THIRD-PARTY ADMINISTRATORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) As used in sections 1 to
2 15, inclusive, of this act:

3 (1) "Adjuster" means an independent or contracted individual who
4 investigates or settles loss claims. "Adjuster" does not include an
5 employee of an insurer who investigates or settles claims incurred
6 under insurance contracts written by the insurer or an affiliated
7 insurer.

8 (2) "Affiliate" or "affiliated" has the same meaning as provided in
9 section 38a-1 of the general statutes.

10 (3) "Business entity" means a corporation, a limited liability
11 company or any other similar form of business organization, whether
12 for profit or nonprofit.

13 (4) "Commissioner" means the Insurance Commissioner.

14 (5) "Control" or "controlled by" has the same meaning as provided

15 in section 38a-1 of the general statutes.

16 (6) "Insurance producer" has the same meaning as provided in
17 section 38a-702a of the general statutes.

18 (7) "Insurer" or "insurance company" means any person or
19 combination of persons doing any kind or form of insurance business
20 other than a fraternal benefit society, and includes a captive insurance
21 company, as defined in section 38a-91aa of the general statutes, a
22 captive insurer as defined in section 38-91k of the general statutes, a
23 licensed insurance company, a medical service corporation, a hospital
24 service corporation, a health care center, and a consumer dental plan
25 that provides employee welfare benefits on a self-funded basis or as
26 defined in section 38a-577 of the general statutes.

27 (8) "NAIC" means the National Association of Insurance
28 Commissioners.

29 (9) "Person" has the same meaning as provided in section 38a-1 of
30 the general statutes.

31 (10) "Sell" means the exchange of an insurance contract for money or
32 other consideration, by any means, on behalf of an insurance company.

33 (11) "Third-party administrator" means any person who directly or
34 indirectly underwrites, collects premiums or charges from, or adjusts
35 or settles claims on, residents of this state in connection with life,
36 annuity or health coverage offered or provided by an insurer. "Third-
37 party administrator" does not include:

38 (A) An employer administering its employee benefit plan or the
39 benefit plan of an affiliated employer under common management and
40 control;

41 (B) A union administering a benefit plan on behalf of its members;

42 (C) An insurer that is licensed in this state or is acting as an

43 authorized insurer with respect to insurance lawfully issued to cover a
44 Connecticut resident, and sales representatives thereof;

45 (D) An insurance producer who is licensed to sell life, annuity or
46 health coverage in this state, whose activities are limited exclusively to
47 the sale of insurance;

48 (E) A creditor acting on behalf of its debtors with respect to
49 insurance covering a debt between the creditor and its debtors;

50 (F) A trust and its trustees, agents and employees acting pursuant to
51 such trust established in conformity with 29 USC Section 186, as
52 amended from time to time;

53 (G) A trust exempt from taxation under Section 501(a) of the
54 Internal Revenue Code of 1986, or any subsequent corresponding
55 internal revenue code of the United States, as amended from time to
56 time, and its trustees and employees acting pursuant to such trust, or a
57 custodian and the custodian's agents and employees acting pursuant
58 to a custodian account that meets the requirements of Section 401(f) of
59 the Internal Revenue Code of 1986, or any subsequent corresponding
60 internal revenue code of the United States, as amended from time to
61 time;

62 (H) A credit union or a financial institution that is subject to
63 supervision or examination by federal or state banking authorities, or a
64 mortgage lender, to the extent such credit union, financial institution
65 or mortgage lender collects or remits premiums to licensed insurance
66 producers or limited lines producers or to authorized insurers, in
67 connection with loan payments;

68 (I) A credit card issuing company that advances or collects
69 premiums or charges from its credit cardholders who have authorized
70 collection;

71 (J) An attorney-at-law who adjusts or settles claims in the normal
72 course of such attorney's practice or employment and who does not

73 collect premiums or charges in connection with life, annuity or health
74 coverage;

75 (K) An adjuster who is licensed in this state or is not subject to the
76 licensure requirements of chapter 702 of the general statutes and
77 whose activities are limited to adjusting claims;

78 (L) An insurance producer who is licensed in this state and acting as
79 a managing general agent, as defined in section 38a-90a of the general
80 statutes, whose activities are limited exclusively to those specified in
81 said section;

82 (M) A business entity that is affiliated with an insurer licensed in
83 this state and that undertakes activities as a third-party administrator
84 only for the direct and assumed insurance business of the affiliated
85 insurer;

86 (N) A consortium of federally qualified health centers funded by the
87 state, providing services only to the recipients of programs
88 administered by the Department of Social Services;

89 (O) A pharmacy benefits manager registered under section 38a-
90 479bbb of the general statutes;

91 (P) An entity providing administrative services to the Health
92 Reinsurance Association established under section 38a-556 of the
93 general statutes; or

94 (Q) A nonprofit association or one of its direct subsidiaries that
95 provides access to insurance as part of the benefits or services such
96 association or subsidiary makes available to its members.

97 (12) "Underwrites" or "underwriting" means the acceptance of
98 employer or individual applications for coverage of individuals in
99 accordance with the written rules of the insurer or self-funded plan,
100 and the overall planning and coordination of a benefits program.

101 (13) "Uniform application" means the current version of the
102 National Association of Insurance Commissioners' Uniform
103 Application for Third Party Administrators.

104 Sec. 2. (NEW) (*Effective October 1, 2010*) (a) No person shall offer to
105 act as or hold himself out to be a third-party administrator in this state
106 unless such person is licensed pursuant to section 11 of this act, or is
107 exempt from licensure pursuant to subsection (b) of this section. This
108 requirement shall not apply to a person employed by a third-party
109 administrator to the extent that such person's activities are under the
110 supervision and control of the third-party administrator. The authority
111 granted to a third-party administrator pursuant to sections 1 to 10,
112 inclusive, of this act shall not exempt such third-party administrator's
113 employees from the licensing requirements of chapters 701b and 702 of
114 the general statutes.

115 (b) (1) Any insurer licensed in this state that directly or indirectly
116 underwrites, collects premiums or charges from, or adjusts or settles
117 claims for other than its policyholders, subscribers and certificate
118 holders shall be exempt from sections 1 to 15, inclusive, of this act,
119 provided such activities only involve the lines of insurance for which
120 such insurer is licensed in this state. Any such insurer shall (A) be
121 subject to the provisions of chapter 704 of the general statutes, (B)
122 respond to all complaint inquiries received from the Insurance
123 Department, not later than ten calendar days after the date a complaint
124 is received by the insurer, and (C) with respect to any advertising that
125 mentions any customer, obtain such customer's prior written consent.

126 (2) Nothing in this section shall authorize the commissioner to
127 regulate a self-insured health plan subject to the Employee Retirement
128 Income Security Act of 1974. The commissioner is authorized to
129 regulate those activities an insurer undertakes for the administration of
130 a self-insured health plan that do not relate to the health benefit plan
131 and that comport with the commissioner's statutory authority to
132 regulate insurance and the business of insurance as provided for in 29

133 USC 1144, as amended from time to time.

134 (c) No third-party administrator shall act as such without a written
135 agreement between such third-party administrator and an insurer or
136 other person utilizing the services of the third-party administrator,
137 which shall be retained as part of the official records of both the third-
138 party administrator and such insurer or other person for the duration
139 of such agreement and for five years thereafter. The agreement shall
140 contain all provisions required by this section, except insofar as those
141 provisions that do not apply to the activities performed by the third-
142 party administrator.

143 (d) The written agreement set forth in subsection (c) of this section
144 shall include, but not be limited to:

145 (1) A statement of activities that the third-party administrator shall
146 undertake on behalf of the insurer or other person utilizing the services
147 of the third-party administrator, and the lines, classes or types of
148 insurance such third-party administrator is authorized to administer;

149 (2) A statement of the activities and responsibilities of the third-
150 party administrator regarding the administration of or any standards
151 pertaining to business underwritten by the insurer, benefits, premium
152 rates, underwriting criteria or claims payment;

153 (3) A provision requiring the third-party administrator to render an
154 accounting, on such frequency as the parties agree, that details all
155 transactions performed by the third-party administrator pertaining to
156 the business underwritten by the insurer or the business of the person
157 utilizing the services of the third-party administrator;

158 (4) The procedures for any withdrawals to be made by the third-
159 party administrator from the fiduciary account established under
160 section 7 of this act. Such procedures shall address, but not be limited
161 to: (A) Remittance to an insurer or other person utilizing the services of
162 the third-party administrator who is entitled to remittance; (B) deposit

163 in an account maintained in the name of the insurer or other person
164 utilizing the services of the third-party administrator; (C) transfer to
165 and deposit in a claims-paying account, with claims to be paid as
166 provided for in subsection (d) of section 7 of this act; (D) payment to a
167 group policyholder for remittance to the insurer or other person
168 utilizing the services of the third-party administrator entitled to such
169 remittance; (E) payment to the third-party administrator for its
170 commissions, fees or charges; and (F) remittance of return premiums to
171 the person or persons entitled to such return premiums;

172 (5) Procedures and requirements for the disclosures required to be
173 made by the third-party administrator under section 9 of this act; and

174 (6) A termination provision, by which either party to the written
175 agreement may terminate such agreement for cause, that includes a
176 procedure to resolve any disputes regarding the cause for termination
177 of such agreement.

178 (e) A third-party administrator or insurer or other person utilizing
179 the services of the third-party administrator may, with written notice,
180 terminate the written agreement for cause as provided in such written
181 agreement. The insurer may suspend the underwriting authority of the
182 third-party administrator during the pendency of any dispute
183 regarding the cause for termination of the written agreement. The
184 insurer or other person utilizing the services of the third-party
185 administrator shall fulfill any legal obligations with respect to policies
186 or plans affected by the written agreement, regardless of any dispute
187 between the third-party administrator and the insurer or other person
188 utilizing the services of the third-party administrator.

189 Sec. 3. (NEW) (*Effective October 1, 2010*) (a) If an insurer or other
190 person utilizes the services of a third-party administrator, the payment
191 of any premiums or charges by or on behalf of an insured to the third-
192 party administrator shall be deemed to have been received by the
193 insurer or other person utilizing the services of the third-party
194 administrator.

195 (b) Return premium payments or claim payments forwarded by the
196 insurer or other person utilizing the services of the third-party
197 administrator to the third-party administrator shall not be deemed to
198 have been paid to the insured or claimant until such payments are
199 received by such insured or claimant.

200 (c) Nothing in this section shall limit any right of an insurer or other
201 person utilizing the services of a third-party administrator to bring a
202 cause of action arising from the failure of such third-party
203 administrator to make payments to the insurer, other person utilizing
204 the services of the third-party administrator, insureds or claimants.

205 Sec. 4. (NEW) (*Effective October 1, 2010*) (a) (1) Each third-party
206 administrator shall maintain and make available to the insurer or other
207 person utilizing the services of the third-party administrator complete
208 books and records of all transactions performed on behalf of the
209 insurer or other person utilizing the services of the third-party
210 administrator. Each third-party administrator shall (A) maintain such
211 books and records in accordance with prudent standards of insurance
212 record keeping, and (B) retain such books and records for a period of
213 not less than five years from the date of their creation.

214 (2) The insurer or other person utilizing the services of a third-party
215 administrator shall own any records generated by such third-party
216 administrator pertaining to such insurer or other person utilizing the
217 services of such third-party administrator. The third-party
218 administrator shall retain the right to maintain continued access to
219 books and records to permit the third-party administrator to fulfill all
220 of its contractual obligations to the insurer, other person utilizing the
221 services of the third-party administrator, insureds or claimants.

222 (b) An insurer that is affiliated with a business entity as set forth in
223 subparagraph (M) of subdivision (11) of section 1 of this act shall be
224 responsible for the acts of such business entity to the extent of such
225 business entity's activities as a third-party administrator for such
226 insurer. Such insurer shall be responsible for furnishing the books and

227 records of all transactions performed on behalf of the insurer to the
228 commissioner upon the commissioner's request.

229 (c) The commissioner shall have access for the purposes of
230 examination, audit and inspection to books and records maintained by
231 a third-party administrator. Any documents, materials or other
232 information in the possession or control of the commissioner that are
233 furnished by a third-party administrator, insurer, insurance producer
234 or employee or agent thereof acting on behalf of such third-party
235 administrator, insurer or insurance producer, or obtained by the
236 commissioner in an investigation shall (1) be confidential by law and
237 privileged, (2) not be subject to disclosure under section 1-210 of the
238 general statutes, (3) not be subject to subpoena, and (4) not be subject
239 to discovery or admissible in evidence in any private civil action. The
240 commissioner may use such documents, materials or other information
241 in the furtherance of any regulatory or legal action brought as a part of
242 the commissioner's official duties.

243 (d) Neither the commissioner nor any person who receives
244 documents, materials or other information as set forth in subsection (c)
245 of this section while acting under the authority of the commissioner
246 shall testify or be required to testify in any private civil action
247 concerning such documents, materials or information.

248 (e) To assist the commissioner in the performance of the
249 commissioner's duties, the commissioner may:

250 (1) Share documents, materials or other information, including
251 documents, materials or other information deemed confidential and
252 privileged pursuant to subsection (c) of this section, with other state,
253 federal and international regulatory agencies, the National Association
254 of Insurance Commissioners or its affiliates or subsidiaries and state,
255 federal and international law enforcement authorities, provided the
256 recipient of such documents, materials or other information agrees to
257 maintain the confidentiality and privileged status of such documents,
258 materials or other information;

259 (2) Receive documents, materials or other information, including
260 confidential and privileged documents, materials or other information
261 from the National Association of Insurance Commissioners or its
262 affiliates or subsidiaries and from regulatory and law enforcement
263 officials of foreign or domestic jurisdictions. The commissioner shall
264 maintain as confidential or privileged any documents, materials or
265 other information received with notice or the understanding that such
266 documents, materials or other information are confidential or
267 privileged under the laws of the jurisdiction that is the source of such
268 documents, materials or other information; and

269 (3) Enter into agreements governing the sharing and use of
270 information consistent with this subsection.

271 (f) No waiver of any applicable privilege or claim of confidentiality
272 in any documents, materials or other information shall occur as a
273 result of disclosure to the commissioner or of sharing in accordance
274 with subsection (e) of this section.

275 (g) Nothing in sections 1 to 15, inclusive, of this act shall prohibit the
276 commissioner from releasing final, adjudicated actions, including for
277 cause terminations of licenses issued to third-party administrators, to a
278 database or other clearinghouse service maintained by the National
279 Association of Insurance Commissioners or its affiliates or subsidiaries.

280 (h) Notwithstanding the provisions of subparagraph (B) of
281 subdivision (1) of subsection (a) of this section, if a written agreement
282 set forth in subsection (c) of this section is terminated, the third-party
283 administrator may, by a separate written agreement with the insurer
284 or other person utilizing the services of the third-party administrator,
285 transfer all books and records to a new third-party administrator. Such
286 new third-party administrator shall acknowledge to the insurer or
287 other person utilizing the services of the new third-party
288 administrator, in writing, that the new third-party administrator shall
289 be responsible for retaining the books and records of the prior third-
290 party administrator as required under subparagraph (B) of subdivision

291 (1) of subsection (a) of this section.

292 Sec. 5. (NEW) (*Effective October 1, 2010*) A third-party administrator
293 shall only use advertising pertaining to the business underwritten by
294 an insurer that has been approved, in writing, by the insurer prior to
295 its use. A third-party administrator that mentions any customer or
296 person utilizing the services of the third-party administrator in its
297 advertising shall obtain such customer's or person's prior written
298 consent.

299 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) Each insurer or other
300 person utilizing the services of a third-party administrator shall be
301 responsible for determining the benefits, premium rates, underwriting
302 criteria and claims payment procedures for the lines, classes or types of
303 insurance such third-party administrator is authorized to administer,
304 and for securing reinsurance, if any. The insurer or other person
305 utilizing the services of a third-party administrator shall provide to
306 such third-party administrator, in writing, procedures pertaining to
307 such third-party administrator's administration of benefits, premium
308 rates, underwriting criteria and claims payment. Each insurer or other
309 person utilizing the services of a third-party administrator shall be
310 responsible for the competent administration of such insurer's or other
311 person's benefit and service programs.

312 (b) If a third-party administrator administers benefits for more than
313 one hundred certificate holders on behalf of an insurer or other person
314 utilizing the services of a third-party administrator, such insurer or
315 other person shall, at least semiannually, conduct a review of the
316 operations of the third-party administrator. At least one such review
317 shall be an on-site audit of the operations of the third-party
318 administrator.

319 Sec. 7. (NEW) (*Effective October 1, 2010*) (a) All premiums or charges
320 collected by a third-party administrator on behalf of or for an insurer
321 or other person utilizing the services of a third-party administrator,
322 and the return of premiums received from such insurer or other

323 person, shall be held by the third-party administrator in a fiduciary
324 capacity. The funds shall be immediately remitted to the person
325 entitled to them or deposited promptly in a fiduciary account
326 established and maintained by the third-party administrator in a
327 federal or state chartered, federally insured financial institution. The
328 third-party administrator shall render an accounting to the insurer or
329 other person utilizing the services of a third-party administrator that
330 details all transactions performed by the third-party administrator
331 pertaining to the business underwritten by the insurer or the business
332 of the person utilizing the services of a third-party administrator.

333 (b) Each third-party administrator that deposits in a fiduciary
334 account charges or premiums collected on behalf of or for one or more
335 insurers or other persons utilizing the services of the third-party
336 administrator shall keep clear records of the deposits in and
337 withdrawals from the account on behalf of each insurer or other
338 person utilizing the services of the third-party administrator. The
339 third-party administrator shall keep copies of all the records and, upon
340 request by the insurer or other person utilizing the services of the
341 third-party administrator, shall furnish such insurer or other person
342 with a copy of the records of the deposits and withdrawals pertaining
343 to such insurer or other person.

344 (c) A third-party administrator shall not pay any claim by making
345 withdrawals from a fiduciary account in which premiums or charges
346 are deposited. Withdrawals from the account shall be made as
347 provided in the written agreement set forth in subsection (c) of section
348 2 of this act.

349 (d) All claims paid by the third-party administrator from funds
350 collected on behalf of or for an insurer or other person utilizing the
351 services of the third-party administrator shall be paid only by drafts or
352 checks of, and as authorized by, such insurer or other person.

353 Sec. 8. (NEW) (*Effective October 1, 2010*) (a) A third-party
354 administrator shall not enter into any written or oral agreement or

355 understanding with an insurer or other person utilizing the services of
356 the third-party administrator that makes or has the effect of making
357 the amount of the third-party administrator's commissions, fees, or
358 charges contingent upon savings effected in the adjustment, settlement
359 or payment of losses covered by the insurer's or other person utilizing
360 the services of the third-party administrator's obligations. This
361 provision shall not prohibit a third-party administrator from receiving
362 performance-based compensation for providing hospital auditing or
363 other auditing services.

364 (b) This section shall not prevent the compensation of a third-party
365 administrator from being based on premiums or charges collected or
366 the number of claims paid or processed.

367 Sec. 9. (NEW) (*Effective October 1, 2010*) (a) When the services of a
368 third-party administrator are utilized, such third-party administrator
369 shall provide a written notice, approved by the insurer or other person
370 utilizing the services of the third-party administrator, to insureds
371 advising them of the identity of, and relationship among, the third-
372 party administrator, the policyholder and the insurer or other person
373 utilizing the services of the third-party administrator.

374 (b) When a third-party administrator collects premiums, charges or
375 fees, the reason for collection of each item shall be identified to the
376 insured and each item shall be shown separately. Additional charges
377 shall not be made for services to the extent the services have been paid
378 for by the insurer or other person utilizing the services of the third-
379 party administrator.

380 (c) The third-party administrator shall disclose to the insurer or
381 other person utilizing the services of the third-party administrator all
382 charges, fees and commissions that the third-party administrator
383 receives arising from services it provides for the insurer or other
384 person utilizing the services of the third-party administrator, including
385 any fees or commissions paid by insurers providing reinsurance or
386 stop loss coverage.

387 Sec. 10. (NEW) (*Effective October 1, 2010*) Any policies, certificates,
388 booklets, termination notices or other written communications
389 delivered by an insurer or other person utilizing the services of a third-
390 party administrator to such third-party administrator for delivery to
391 such insurer's or other person's insureds shall be delivered by the
392 third-party administrator promptly after receipt of instructions to
393 deliver them from an insurer or other person utilizing the services of
394 the third-party administrator.

395 Sec. 11. (NEW) (*Effective October 1, 2010*) (a) A third-party
396 administrator applying for licensure shall submit an application to the
397 commissioner by using the uniform application and paying a fee
398 pursuant to section 38a-11 of the general statutes, as amended by this
399 act. The uniform application shall include or be accompanied by the
400 following information and documents: (1) All basic organizational
401 documents of the applicant, including any articles of incorporation,
402 articles of association, partnership agreement, trade name certificate,
403 trust agreement, shareholder agreement and other applicable
404 documents and all amendments to such documents; (2) the bylaws,
405 rules, regulations or similar documents regulating the internal affairs
406 of the applicant; (3) a NAIC biographical affidavit for the individuals
407 responsible for the conduct of affairs of the applicant, including (A) all
408 members of the board of directors, board of trustees, executive
409 committee or other governing board or committee; (B) the principal
410 officers in the case of a corporation or the partners or members in the
411 case of a partnership, association or limited liability company; (C) any
412 shareholders or member holding directly or indirectly ten per cent or
413 more of the voting stock, voting securities or voting interest of the
414 applicant; and (D) any other person who exercises control or influence
415 over the affairs of the applicant; (4) audited annual financial
416 statements or reports for the two most recent fiscal years that prove the
417 applicant has a positive net worth. If the applicant has been in
418 existence for less than two fiscal years, the uniform application shall
419 include financial statements or reports, certified by an officer of the
420 applicant and prepared in accordance with generally accepted

421 accounting principles, for any completed fiscal years and for any
422 month during the current fiscal year for which such financial
423 statements or reports have been completed. An audited annual
424 financial statement or report prepared on a consolidated basis shall
425 include a columnar consolidating or combining worksheet that shall be
426 filed with the report and include the following: (A) Amounts shown on
427 the consolidated audited financial report shall be shown on the
428 worksheet; (B) amounts for each entity shall be stated separately; and
429 (C) explanations of consolidating and eliminating entries shall be
430 included. The applicant shall include such other information as the
431 commissioner may require to review the current financial condition of
432 the applicant; (5) a statement describing the business plan including
433 information on staffing levels and activities proposed in this state and
434 nationwide. The plan shall provide details setting forth the applicant's
435 capability for providing a sufficient number of experienced and
436 qualified personnel in the areas of claims processing, recordkeeping
437 and underwriting; and (6) such other pertinent information as may be
438 required by the commissioner.

439 (b) A third-party administrator applying for licensure shall make
440 available for inspection by the commissioner copies of all written
441 agreements with insurers or other persons utilizing the services of the
442 third-party administrator.

443 (c) A third-party administrator applying for licensure shall produce
444 its accounts, records and files for examination and shall make its
445 officers available to give information with respect to its affairs, as often
446 as is reasonably required by the commissioner.

447 (d) The commissioner may refuse to issue a license if the
448 commissioner determines that the third-party administrator or any
449 individual responsible for the conduct of the affairs of the third-party
450 administrator is not competent, trustworthy, financially responsible or
451 of good personal and business reputation, or has had an insurance or a
452 third-party administrator certificate of authority or license denied or

453 revoked for cause by any jurisdiction, or if the commissioner
454 determines that any of the grounds set forth in section 14 of this act
455 exists with respect to the third-party administrator.

456 (e) Any license issued to a third-party administrator shall be in force
457 until September thirtieth of each year, unless sooner revoked or
458 suspended as provided in this section. The license may be renewed, at
459 the discretion of the commissioner, upon payment of the fee specified
460 in section 38a-11 of the general statutes, as amended by this act,
461 without the resubmission of the detailed information required in the
462 original application.

463 (f) A third-party administrator licensed or applying for licensure
464 under this section shall notify the commissioner immediately of any
465 material change in its ownership, control or other fact or circumstance
466 affecting its qualification for a license in this state.

467 (g) A third-party administrator licensed or applying for a license
468 under this section that administers or will administer governmental or
469 church self-insured plans in this state or any other state shall maintain
470 a surety bond, for use by the commissioner and the insurance
471 regulatory authority of any additional state in which the third-party
472 administrator is authorized to conduct business, to cover individuals
473 and persons who have remitted premiums, charges or fees to the third-
474 party administrator in the course of the third-party administrator's
475 business, in the greater of the following amounts: (1) One hundred
476 thousand dollars; or (2) ten per cent of the aggregate total amount of
477 self-funded coverage under governmental plans or church plans
478 handled in this state and all additional states in which the third-party
479 administrator is authorized to conduct business.

480 Sec. 12. (NEW) (*Effective October 1, 2010*) A person who is not
481 required to be licensed as a third-party administrator under
482 subdivision (11) of section 1 or section 2 of this act and who directly or
483 indirectly underwrites, collects charges or premiums from, or adjusts
484 or settles claims on residents of this state, only in connection with life,

485 annuity or health coverage provided by a self-funded plan other than
486 governmental or church plans, shall register annually with the
487 commissioner not later than October first on a form designated by the
488 commissioner.

489 Sec. 13. (NEW) (*Effective October 1, 2010*) (a) Each third-party
490 administrator licensed under section 11 of this act shall file an annual
491 report for the preceding calendar year with the commissioner on or
492 before July first of each year or within such extension of time as the
493 commissioner may grant for good cause. The annual report shall
494 include an audited financial statement performed by an independent
495 certified public accountant. An audited annual financial statement or
496 report prepared on a consolidated basis shall include a columnar
497 consolidating or combining worksheet that shall be filed with the
498 report and include the following: (1) Amounts shown on the
499 consolidated audited financial report shall be shown on the worksheet;
500 (2) amounts for each entity shall be stated separately; and (3)
501 explanations of consolidating and eliminating entries shall be
502 included. The report shall be in the form and contain such information
503 as the commissioner prescribes and shall be verified by at least two
504 officers of the third-party administrator.

505 (b) The annual report shall include the complete names and
506 addresses of all insurers or other persons with which the third-party
507 administrator had written agreements during the preceding fiscal year.

508 (c) At the time of filing the annual report, the third-party
509 administrator shall pay a filing fee as specified in section 38a-11 of the
510 general statutes, as amended by this act.

511 (d) The commissioner shall review the most recently filed annual
512 report of each third-party administrator on or before September first of
513 each year. Upon completion of its review, the commissioner shall: (1)
514 Issue a certification to the third-party administrator that the annual
515 report shows the third-party administrator has a positive net worth as
516 evidenced by audited financial statements and is currently licensed

517 and in good standing, or noting any deficiencies found in such annual
518 report or financial statements; or (2) update any electronic database
519 maintained by the National Association of Insurance Commissioners,
520 its affiliates or subsidiaries, indicating that the annual report shows the
521 third-party administrator has a positive net worth as evidenced by
522 audited financial statements and complies with existing law, or noting
523 any deficiencies found in such annual report or financial statements.

524 Sec. 14. (NEW) (*Effective October 1, 2010*) (a) The commissioner shall
525 suspend or revoke the license of a third-party administrator, or shall
526 issue a cease and desist order if the third-party administrator does not
527 have a license if, after notice and hearing, the commissioner finds that
528 the third-party administrator: (1) Is in an unsound financial condition;
529 (2) is using such methods or practices in the conduct of its business so
530 as to render its further transaction of business in this state hazardous
531 or injurious to insured persons or the public; or (3) has failed to pay
532 any judgment rendered against it in this state within sixty days after
533 the judgment has become final.

534 (b) The commissioner may suspend or revoke the license of a third-
535 party administrator, or may issue a cease and desist order if the third-
536 party administrator does not have a license if, after notice and hearing,
537 the commissioner finds that the third-party administrator: (1) Has
538 violated any lawful rule or order of the commissioner or any provision
539 of the insurance laws of this state; (2) (A) has refused to be examined
540 or to produce its accounts, records and files for examination, or (B) if
541 any individual responsible for the conduct of the affairs of the third-
542 party administrator, including (i) members of the board of directors,
543 board of trustees, executive committee or other governing board or
544 committee, (ii) the principal officers in the case of a corporation or the
545 partners or members in the case of a partnership, association or limited
546 liability company, (iii) any shareholder or member holding directly or
547 indirectly ten per cent or more of the voting stock, voting securities or
548 voting interest of the third-party administrator, and (iv) any other
549 person who exercises control or influence over the affairs of the third-

550 party administrator, has refused to provide information with respect to
551 its affairs or to perform other legal obligations as to an examination,
552 when required by the commissioner; (3) has, without just cause,
553 refused to pay proper claims or perform services arising under its
554 contracts or has, without just cause, caused insureds to accept less than
555 the amount due or caused insureds to employ attorneys or bring suit
556 against the third-party administrator to secure full payment or
557 settlement of such claims; (4) fails at any time to meet any qualification
558 for which issuance of a license could have been refused had the failure
559 then existed and been known to the commissioner; (5) has any
560 individual who is responsible for the conduct of its affairs, including
561 (A) members of the board of directors, board of trustees, executive
562 committee or other governing board or committee, (B) the principal
563 officers in the case of a corporation or the partners or members in the
564 case of a partnership, association or limited liability company, (C) any
565 shareholder or member holding directly or indirectly ten per cent or
566 more of its voting stock, voting securities or voting interest, and (D)
567 any other person who exercises control or influence over its affairs,
568 who has been convicted of or has entered a plea of guilty or nolo
569 contendere to a felony, without regard to whether adjudication was
570 withheld; (6) is under suspension or revocation in another state; or (7)
571 has failed to file a timely annual report pursuant to section 13 of this
572 act.

573 (c) (1) The commissioner may, without advance notice and before a
574 hearing, issue an order immediately suspending the license of a third-
575 party administrator, or may issue a cease and desist order if the third-
576 party administrator does not have a license, if the commissioner finds
577 that one or more of the following circumstances exist: (A) The third-
578 party administrator is insolvent or impaired; (B) a proceeding for
579 receivership, conservatorship, rehabilitation or other delinquency
580 proceeding regarding the third-party administrator has been
581 commenced in any state; or (C) the financial condition or business
582 practices of the third-party administrator otherwise pose an imminent
583 threat to the public health, safety or welfare of the residents of this

584 state.

585 (2) At the time the commissioner issues an order pursuant to
586 subdivision (1) of this subsection, the commissioner shall serve notice
587 to the third-party administrator that such third-party administrator
588 may request a hearing not later than ten business days after the receipt
589 of the order. If a hearing is requested, the commissioner shall schedule
590 a hearing not later than ten business days after receipt of the request. If
591 a hearing is not requested and the commissioner does not choose to
592 hold one, the order shall remain in effect until modified or vacated by
593 the commissioner.

594 Sec. 15. (NEW) (*Effective October 1, 2010*) The Insurance
595 Commissioner may adopt regulations, in accordance with chapter 54
596 of the general statutes, to implement the provisions of sections 1 to 14,
597 inclusive, of this act.

598 Sec. 16. Subsection (a) of section 38a-15 of the general statutes is
599 repealed and the following is substituted in lieu thereof (*Effective*
600 *October 1, 2010*):

601 (a) The commissioner shall, as often as [he] the commissioner deems
602 it expedient, undertake a market conduct examination of the affairs of
603 any insurance company, health care center, third-party administrator,
604 as defined in section 1 of this act, or fraternal benefit society doing
605 business in this state.

606 Sec. 17. Subsection (a) of section 38a-11 of the 2010 supplement to
607 the general statutes is repealed and the following is substituted in lieu
608 thereof (*Effective October 1, 2010*):

609 (a) The commissioner shall demand and receive the following fees:
610 (1) For the annual fee for each license issued to a domestic insurance
611 company, two hundred dollars; (2) for receiving and filing annual
612 reports of domestic insurance companies, fifty dollars; (3) for filing all
613 documents prerequisite to the issuance of a license to an insurance

614 company, two hundred twenty dollars, except that the fee for such
615 filings by any health care center, as defined in section 38a-175, shall be
616 one thousand three hundred fifty dollars; (4) for filing any additional
617 paper required by law, thirty dollars; (5) for each certificate of
618 valuation, organization, reciprocity or compliance, forty dollars; (6) for
619 each certified copy of a license to a company, forty dollars; (7) for each
620 certified copy of a report or certificate of condition of a company to be
621 filed in any other state, forty dollars; (8) for amending a certificate of
622 authority, two hundred dollars; (9) for each license issued to a rating
623 organization, two hundred dollars. In addition, insurance companies
624 shall pay any fees imposed under section 12-211; (10) a filing fee of
625 fifty dollars for each initial application for a license made pursuant to
626 section 38a-769; (11) with respect to insurance agents' appointments:
627 (A) A filing fee of fifty dollars for each request for any agent
628 appointment, except that no filing fee shall be payable for a request for
629 agent appointment by an insurance company domiciled in a state or
630 foreign country which does not require any filing fee for a request for
631 agent appointment for a Connecticut insurance company; (B) a fee of
632 one hundred dollars for each appointment issued to an agent of a
633 domestic insurance company or for each appointment continued; and
634 (C) a fee of eighty dollars for each appointment issued to an agent of
635 any other insurance company or for each appointment continued,
636 except that (i) no fee shall be payable for an appointment issued to an
637 agent of an insurance company domiciled in a state or foreign country
638 which does not require any fee for an appointment issued to an agent
639 of a Connecticut insurance company, and (ii) the fee shall be twenty
640 dollars for each appointment issued or continued to an agent of an
641 insurance company domiciled in a state or foreign country with a
642 premium tax rate below Connecticut's premium tax rate; (12) with
643 respect to insurance producers: (A) An examination fee of fifteen
644 dollars for each examination taken, except when a testing service is
645 used, the testing service shall pay a fee of fifteen dollars to the
646 commissioner for each examination taken by an applicant; (B) a fee of
647 eighty dollars for each license issued; (C) a fee of eighty dollars per

648 year, or any portion thereof, for each license renewed; and (D) a fee of
649 eighty dollars for any license renewed under the transitional process
650 established in section 38a-784; (13) with respect to public adjusters: (A)
651 An examination fee of fifteen dollars for each examination taken,
652 except when a testing service is used, the testing service shall pay a fee
653 of fifteen dollars to the commissioner for each examination taken by an
654 applicant; and (B) a fee of two hundred fifty dollars for each license
655 issued or renewed; (14) with respect to casualty adjusters: (A) An
656 examination fee of twenty dollars for each examination taken, except
657 when a testing service is used, the testing service shall pay a fee of
658 twenty dollars to the commissioner for each examination taken by an
659 applicant; (B) a fee of eighty dollars for each license issued or renewed;
660 and (C) the expense of any examination administered outside the state
661 shall be the responsibility of the entity making the request and such
662 entity shall pay to the commissioner two hundred dollars for such
663 examination and the actual traveling expenses of the examination
664 administrator to administer such examination; (15) with respect to
665 motor vehicle physical damage appraisers: (A) An examination fee of
666 eighty dollars for each examination taken, except when a testing
667 service is used, the testing service shall pay a fee of eighty dollars to
668 the commissioner for each examination taken by an applicant; (B) a fee
669 of eighty dollars for each license issued or renewed; and (C) the
670 expense of any examination administered outside the state shall be the
671 responsibility of the entity making the request and such entity shall
672 pay to the commissioner two hundred dollars for such examination
673 and the actual traveling expenses of the examination administrator to
674 administer such examination; (16) with respect to certified insurance
675 consultants: (A) An examination fee of twenty-six dollars for each
676 examination taken, except when a testing service is used, the testing
677 service shall pay a fee of twenty-six dollars to the commissioner for
678 each examination taken by an applicant; (B) a fee of two hundred fifty
679 dollars for each license issued; and (C) a fee of two hundred fifty
680 dollars for each license renewed; (17) with respect to surplus lines
681 brokers: (A) An examination fee of twenty dollars for each

682 examination taken, except when a testing service is used, the testing
683 service shall pay a fee of twenty dollars to the commissioner for each
684 examination taken by an applicant; and (B) a fee of six hundred
685 twenty-five dollars for each license issued or renewed; (18) with
686 respect to fraternal agents, a fee of eighty dollars for each license
687 issued or renewed; (19) a fee of twenty-six dollars for each license
688 certificate requested, whether or not a license has been issued; (20)
689 with respect to domestic and foreign benefit societies shall pay: (A) For
690 service of process, fifty dollars for each person or insurer to be served;
691 (B) for filing a certified copy of its charter or articles of association,
692 fifteen dollars; (C) for filing the annual report, twenty dollars; and (D)
693 for filing any additional paper required by law, fifteen dollars; (21)
694 with respect to foreign benefit societies: (A) For each certificate of
695 organization or compliance, fifteen dollars; (B) for each certified copy
696 of permit, fifteen dollars; and (C) for each copy of a report or certificate
697 of condition of a society to be filed in any other state, fifteen dollars;
698 (22) with respect to reinsurance intermediaries: A fee of six hundred
699 twenty-five dollars for each license issued or renewed; (23) with
700 respect to life settlement providers: (A) A filing fee of twenty-six
701 dollars for each initial application for a license made pursuant to
702 section 38a-465a; and (B) a fee of forty dollars for each license issued or
703 renewed; (24) with respect to life settlement brokers: (A) A filing fee of
704 twenty-six dollars for each initial application for a license made
705 pursuant to section 38a-465a; and (B) a fee of forty dollars for each
706 license issued or renewed; (25) with respect to preferred provider
707 networks, a fee of two thousand seven hundred fifty dollars for each
708 license issued or renewed; (26) with respect to rental companies, as
709 defined in section 38a-799, a fee of eighty dollars for each permit
710 issued or renewed; (27) with respect to medical discount plan
711 organizations licensed under section 38a-479rr, a fee of six hundred
712 twenty-five dollars for each license issued or renewed; (28) with
713 respect to pharmacy benefits managers, an application fee of one
714 hundred dollars for each registration issued or renewed; (29) with
715 respect to captive insurance companies, as defined in section 38a-91aa,

716 a fee of three hundred seventy-five dollars for each license issued or
 717 renewed; [and] (30) with respect to each duplicate license issued a fee
 718 of fifty dollars for each license issued; and (31) with respect to third-
 719 party administrators, as defined in section 1 of this act, (A) a fee of five
 720 hundred dollars for each license issued, (B) a fee of three hundred fifty
 721 dollars for each license renewed, and (C) a fee of one hundred dollars
 722 for each annual report filed pursuant to section 13 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section
Sec. 8	<i>October 1, 2010</i>	New section
Sec. 9	<i>October 1, 2010</i>	New section
Sec. 10	<i>October 1, 2010</i>	New section
Sec. 11	<i>October 1, 2010</i>	New section
Sec. 12	<i>October 1, 2010</i>	New section
Sec. 13	<i>October 1, 2010</i>	New section
Sec. 14	<i>October 1, 2010</i>	New section
Sec. 15	<i>October 1, 2010</i>	New section
Sec. 16	<i>October 1, 2010</i>	38a-15(a)
Sec. 17	<i>October 1, 2010</i>	38a-11(a)

Statement of Purpose:

To require third-party administrators to be licensed by the Insurance Department, to establish standards for such licensure and the conduct of business by third-party administrators, to grant the Insurance Department access to certain books and records, and to provide enforcement authority to the Insurance Commissioner.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]